

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF SOUTH DAKOTA

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| IN THE MATTER OF THE COMPLAINT FILED) BY B. J. PEASE, ET AL., SIMILARLY) SITUATED CONSUMERS, ABERDEEN, SOUTH) DAKOTA, AGAINST NORTHWESTERN) PUBLIC SERVICE COMPANY REGARDING) MULTIPLE BILLING ISSUES) | FINDINGS OF FACT AND CONCLUSIONS OF LAW; NOTICE OF ENTRY OF ORDER CE00-001 |
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On April 24, 2000, the Public Utilities Commission (Commission) received a complaint filed by B. J. Pease, Aberdeen, South Dakota, against NorthWestern Public Service Company (NWPS). Complainant requested the Commission issue an order restraining NWPS from disconnecting her electrical service in addition to other remedies, including requests for damages and fines.

On April 25, 2000, the complaint was faxed to NWPS. Pursuant to ARSD 20:10:01:09, NWPS was notified that it must satisfy the complaint or file an answer in writing with the Commission by May 16, 2000.

A hearing was held as scheduled on June 27, 2000, in the State Capitol Building, 500 E. Capitol, Pierre, South Dakota. The issue at the hearing was whether NWPS committed an unlawful or unreasonable act, rate, practice or omission and, if so, what relief would be appropriate.

At its August 22, 2000, meeting, the Commission ruled that NWPS must follow Commission rules and found that Ms. Pease was required to pay her past due electric bill.

Based on the evidence of record, the Commission makes the following findings of fact and conclusions of law:

FINDINGS OF FACT

1. On April 24, 2000, the Commission received a complaint filed by B. J. Pease against NWPS. Ms. Pease requested the Commission issue an order restraining NWPS from disconnecting her electrical service in addition to other remedies, including requests for damages and fines.

2. Ms. Pease stated that in her contacts with NWPS' customer service representatives she was asked irrelevant questions and was told that NWPS required social security numbers in order to obtain service. Tr. at 13-14. NWPS stated that its customer service representatives are instructed that social security numbers are not required. Tr. at 77. The Commission finds that NWPS should make sure that its customer representatives follow NWPS' policy that social security numbers are not required in order to initiate service.

3. Ms. Pease stated that NWPS failed to provide a customer information publication list and applicable rate schedules. Tr. at 14. NWPS stated that it mails a customer handbook to all new customers. Tr. at 55; Exhibit 9. The Commission finds that if NWPS has other customer information publications other than the customer handbook, it must provide a list of those publications to new customers as required by ARSD 20:10:16:02. In addition, NWPS must provide new customers with the applicable rate schedule as required by ARSD 20:10:16:02. Also, this information must be provided to Ms. Pease.

4. Ms. Pease stated that she wanted to be billed at the address she provided NWPS. Tr. at 17. Ms. Pease stated that since her first bills were sent to the wrong address, she received a disconnection notice for not paying the bills and was assessed late fees. Tr. at 17-18. She stated that NWPS failed to issue corrected bills and instructed her to take off the late charges and interest. Tr. at 18-19. NWPS acknowledged that her first bills were sent to the wrong address. Tr. at 166. NWPS now sends the bills to the correct address and has deleted all late fees. Tr. at 147. The Commission finds that in the future, if NWPS erroneously bills a customer for late fees, NWPS shall send the customer a corrected bill and not require the customer to figure out the correct bill.

5. Ms. Pease stated that NWPS should be required to publish complete customer rules and make the rules available to customers. Tr. at 19-20. The Commission finds that NWPS' customer handbook is its publication of customer rules and the handbook complies with the Commission's rules. See Exhibit 9. NWPS currently provides its customer handbook to all new customers. Tr. at 55. Pursuant to ARSD 20:10:16:02, NWPS shall provide a copy of its customer handbook to its customers upon request.

6. Ms. Pease stated that NWPS should be required to furnish customers with the title, address, and telephone numbers of the departments from which information can be secured or complaints filed. Tr. at 20. This is a requirement of ARSD 20:10:16:02(2). The Commission finds that NWPS' customer handbook provides this information. See Exhibit 9 at pages 2, 10.

7. Ms. Pease stated that NWPS did not post notices in its offices explaining how to file a complaint and giving the Commission's address and telephone number if help was needed to resolve the complaint. Tr. at 21. NWPS stated that it had not been posting notices in all of its offices but that it was now in compliance with the rule. Tr. at 68. Ms. Pease stated that she was recently in an NWPS office and the notice was still not posted. Tr. at 138. The Commission directs NWPS to comply with ARSD 20:10:16:01(1) which requires the posting of the notice and to periodically check to see that the notices are still posted.

8. Ms. Pease stated NWPS failed to properly characterize late charges. Tr. at 22. She stated that up until the last couple of months, NWPS had been listing some late charges under the heading "adjustments" with no explanation that the "adjustment" was a late charge. *Id.* NWPS admitted that it had characterized part of the late charge, the flat \$2.00

charge, as an "adjustment." Tr. at 145. NWPS' bill then listed a late payment fee which is one percent of the outstanding balance. Tr. at 146. NWPS stated the bill format was approved by the Commission. *Id.* The Commission finds that it is unclear from the record whether NWPS is continuing to list a late charge as an "adjustment" with no explanation that an "adjustment" is a late charge. However, if NWPS has not stopped this practice, the Commission directs NWPS to immediately stop listing late charges as adjustments. The Commission has never approved of this practice and finds it to be misleading and confusing for NWPS' customers.

9. Ms. Pease stated that NWPS should conduct full and prompt investigations of consumer complaints and report the results to the customer. Tr. at 23. NWPS stated that it had responded to Ms. Pease's complaints and reported the results back to her. Tr. at 75-76. The Commission finds that NWPS could have conducted more prompt investigations since some of Ms. Pease's concerns were not addressed in a timely manner. See Tr. at 12, 22, 29, 117-118.

10. Ms. Pease requested that NWPS report all unresolved complaints to the Commission. TR. at 24. Pursuant to ARSD 20:10:17:13, NWPS is required to submit a summary of complaints with its annual report to the Commission. NWPS did not know if it reported unresolved complaints. Tr. at 76. To the extent NWPS is not complying with this rule, the Commission directs NWPS to file the complaint summaries as required by the rule.

11. Ms. Pease stated that NWPS failed to accept payments from her when she tried to pay by credit card. Tr. at 25-26. She stated that in order to make a payment by credit card, NWPS needed her social security number, date of birth, and her mother's maiden name. Tr. at 27. She refused to give that personal information so NWPS would not accept payment by her credit card. She was also told that the Commission had approved of this procedure. Tr. at 29. NWPS admitted that it was incorrect when it told Ms. Pease that the Commission had approved this procedure. Tr. at 78. NWPS told Ms. Pease that she could give a number that was not her social security number and a name different than her mother's maiden name. Tr. at 128, 135. In April of 2000, NWPS changed its policy and no longer required personal information in order to accept a credit card payment. Tr. at 61-62. The Commission finds that since NWPS has changed its policy, no action needs to be taken by the Commission concerning this issue.

12. Ms. Pease stated that NWPS needs to respect religious diversity and not retaliate when consumers indicate that alternate religious instruction is not welcome. Tr. at 31-33. She stated that an NWPS employee mentioned principles of Christianity and Ms. Pease objected to having to listen to religious views. Tr. at 32. Ms. Pease also stated that she had a Human Rights Commission complaint pending on this issue. *Id.* The Commission finds that this type of complaint is more appropriately handled by the Human Rights Commission.

13. Ms. Pease stated that NWPS set up a fake meeting with the president of the company. Tr. at 33. NWPS did not adequately address this issue. The Commission finds that NWPS should take steps to ensure that any meetings set up with the consumers are attended by company personnel.

14. Ms. Pease stated that NWPS failed to bear the burdens of utility violations and abusive practices and failed to keep promises voluntarily offered to the consumer. Tr. at 34. The Commission finds that these issues are covered under the more specific issues listed by Ms. Pease.

15. Ms. Pease stated that NWPS failed to inform consumers in a timely fashion of the ten day rule for Commission review. Tr. at 35. NWPS did not adequately address this issue. The Commission finds that NWPS shall comply with ARSD 20:10:17:12 and notify a customer that the customer has the right to appeal to the Commission for resolution within ten working days after a disconnection notice.

16. Ms. Pease stated that NWPS failed to act in good faith. Tr. at 35. The Commission finds that this issue is covered under the more specific issues listed by Ms. Pease.

17. Ms. Pease's June 28, 2000, electric bill showed a past due balance of \$247.02. Exhibit 1. Ms. Pease stated that she should not be required to pay for her past due electric bill for the following reasons: 1) NWPS failed to disclose the rate; 2) NWPS failed to send her bill to the right address for the first two months; and 3) NWPS refused to allow her to pay by credit card unless she disclosed personal information. Tr. at 44-45. The Commission finds that Ms. Pease is responsible to pay for her electric bill. Although Ms. Pease did not wish to give the personal information NWPS required in order for Ms. Pease to pay her bill with her credit card, there were other payment methods available. In addition, by April 12, 2000, NWPS no longer required personal information to process a credit card payment. Tr. at 61-62. Further, NWPS' failure to send Ms. Pease's bill to the right address when she first initiated service does not relieve Ms. Pease of her obligation to pay her electric bill, especially since NWPS has forgiven the late fees and charges. Finally, NWPS is required to provide Ms. Pease with the applicable rate schedules and if Ms. Pease believes that NWPS did not charge her the correct rate, Ms. Pease may file a complaint with the Commission.

18. Ms. Pease requested damages. Tr. at 190. However, the Commission does not have the statutory authority to award damages in cases involving electric utilities.

CONCLUSIONS OF LAW

1. The Commission finds that it has jurisdiction over this matter pursuant to SDCL Chapters 1-26 and 49-34A, including 49-34A-2, 49-34A-2.1, 49-34A-3, 49-34A-4, 49-34A-26, and 49-34A-27.

2. The Commission finds it does not have the statutory authority to award damages in cases involving electric utilities.

3. The Commission finds that NWPS shall take the actions necessary to comply with the Commission's findings as listed above.

4. The Commission finds that Ms. Pease is responsible to pay for her electric bills and failure to pay will subject her to disconnection in accordance with the Commission's rules.

It is therefore

ORDERED, that NWPS shall take the actions necessary to comply with the Commission's findings as listed above; and it is

FURTHER ORDERED, that Ms. Pease is responsible to pay for her electric bills and failure to pay will subject her to disconnection in accordance with the Commission's rules.

NOTICE OF ENTRY OF ORDER

PLEASE TAKE NOTICE that this Order was duly entered on the 28th day of August, 2000. Pursuant to SDCL 1-26-32, this Order will take effect 10 days after the date of receipt or failure to accept delivery of the decision by the parties.

Dated at Pierre, South Dakota, this 28th day of August, 2000.

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| <p style="text-align: center;">CERTIFICATE OF SERVICE</p> <p>The undersigned hereby certifies that this document has been served today upon all parties of record in this docket, as listed on the docket service list, by facsimile or by first class mail, in properly addressed envelopes, with charges prepaid thereon.</p> <p>By: _____</p> <p>Date: _____</p> <p style="text-align: center;">(OFFICIAL SEAL)</p> |
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BY ORDER OF THE COMMISSION:

JAMES A. BURG, Chairman

LASKA SCHOENFELDER, Commissioner